

REMARKS

Before turning to the substantive aspects of the Office Action, Applicants take this opportunity to request that the Examiner acknowledge the claim for foreign priority under 35 U.S.C. § 119 based on the German priority application DE 103 54 056.3 filed on November 19, 2003, and confirm that the certified copy of the priority document filed on May 12, 2006 has been received.

Claims 1-11 are pending in this application. The Examiner has issued a species election requirement in this case. The Examiner, finding claim 1-2 and 8-11 to be generic, contends that the claims are readable on various allegedly patentably distinct species of the claimed invention, namely:

- Species 1 directed to the embodiment of the present invention as illustrated in Fig. 2;
- Species 2 directed to the embodiment of the present invention as illustrated in Fig. 3; and
- Species 3 directed to the embodiment of the present invention as illustrated in Figure 4.

The Examiner, relying on PCT Rules 13.1 and 13.2 rather than U.S. statutory authority, requires that Applicants elect one of the foregoing Species 1-3 for immediate prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

In compliance with the election requirement, Applicants provisionally elect Species 1 and the claims readable thereon for immediate examination. Applicants identify claims 1-2 and 8-11 as being readable on the elected Species 1. This provisional election is made with the understanding that the features depicted in Fig. 1 are also encompassed by the election (notice to this effect is respectfully requested).

Also, this election is made with traverse. For the reasons set forth below, Applicants respectfully submit that all of the application claims are properly set forth in the present application as filed. Accordingly, Applicants request reconsideration and withdrawal of the election requirement.

First, respectfully, all of the claims in the present application are related to embodiments of the same inventive subject matter.

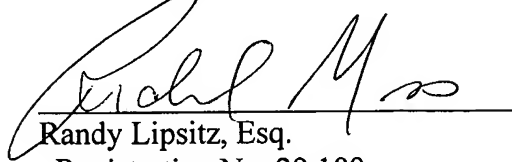
Second, as noted above, the Examiner applied PCT Rules 13.1 and 13.2 as the basis for the election requirement. However, this is entirely at odds with and, accordingly, is completely undermined by the determination of the PCT Authorized Officer in the corresponding PCT/EP 04/0011322 case who, applying the very same PCT standards, found unity of invention with regard to all of the PCT claims corresponding to the present application claims. A copy of the first sheet of the International Preliminary Report on Patentability in the corresponding PCT case is attached – notably, the PCT Authorized Officer did not check Box No. IV, thus, indicating that unity of invention is not lacking.

In view of the foregoing, reconsideration and withdrawal of the election requirement is respectfully requested and early and favorable examination on the merits is earnestly solicited.

The Examiner is invited to contact Applicants' undersigned attorneys at the telephone number set forth below if it will advance the prosecution of this case.

No fee is believed due with this Reply. Please charge any fee deficiency to
Deposit Account No. 50-0540.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Randy Lipsitz", is written over a horizontal line.

Randy Lipsitz, Esq.

Registration No. 29,189

Richard L. Moss, Esq.

Registration No. 39,782

Leslie K. Nguyen, Esq.

Registration No. 49,081

Attorneys for Applicants

KRAMER LEVIN NAFTALIS & FRANKEL LLP

1177 Avenue of the Americas

New York, New York 10036

(212) 715-9100

TENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference WP 32/03 WO	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2004/011322	International filing date (<i>day/month/year</i>) 09 October 2004 (09.10.2004)	Priority date (<i>day/month/year</i>) 19 November 2003 (19.11.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant WABCO GMBH & CO. OHG		

1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).

2. This REPORT consists of a total of 8 sheets, including this cover sheet.

In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.

3. This report contains indications relating to the following items:

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|-------------------------------------|--------------|---|
| <input checked="" type="checkbox"/> | Box No. I | Basis of the report |
| <input checked="" type="checkbox"/> | Box No. II | Priority |
| <input type="checkbox"/> | Box No. III | Non-establishment of opinion with regard to novelty, inventive step and industrial applicability |
| <input type="checkbox"/> | Box No. IV | Lack of unity of invention |
| <input checked="" type="checkbox"/> | Box No. V | Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement |
| <input checked="" type="checkbox"/> | Box No. VI | Certain documents cited |
| <input type="checkbox"/> | Box No. VII | Certain defects in the international application |
| <input type="checkbox"/> | Box No. VIII | Certain observations on the international application |

4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Date of issuance of this report 27 July 2006 (27.07.2006)
Facsimile No. +41 22 338 82 70	Authorized officer <div style="text-align: center; font-size: 1.2em; font-weight: bold;">Ellen Moyse</div> e-mail: pt05@wipo.int